

REMARKS/ARGUMENTS

This Amendment is to support the Request for Continued Examination concurrently filed therein. In the Advisory Action mailed December 27, 2004, claims 1-20 were rejected under 35 U.S.C. § 103. Reconsideration in light of the amendments and remarks made herein is respectfully requested. Claims 15-20 have been cancelled without prejudice. Claims 21-23 have been added. Consideration of pending claims 1-14 and 21-23 is respectfully requested.

Rejection Under 35 U.S.C. § 103

Claims 1-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Turner (US Patent No. 6,084,956), in view of Boese (US Patent No. 5,084,816). Applicants respectfully traverse the rejection and contend that the Examiner has not met the burden of establishing a *prima facie* case of obviousness.

As the Examiner is aware, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *See MPEP §2143*. Herein, there is no suggestion or motivation for the combined teachings of Turner and Boese, which Applicants respectfully request the Examiner to reconsider, and the combined teachings fail to teach or suggest all of the limitations.

First, the Federal Circuit has several times expressly addressed the issue of how to evaluate an alleged case of *prima facie* obviousness to determine whether it has been properly made. For instance, in *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q 929, 933 (Fed. Cir. 1984), the Federal Circuit stated “[o]bviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination.” There is no motivation for the combination suggested by the Examiner.

Applicants respectfully submit that Turner describes a virtual CCS7 signaling node (60) for call setup handled by the interworking function (54) and network controller (63). Two control paths exist to the NAS (server 59). A first path (55) between the interworking function (54) and the NAS (59) handles call setup and other signaling primitives. A second path (58) between the network controller (63) and the NAS (59) handles enhanced service processing. *See column 5, lines 50-65 of Turner.* This embodiment provides a technique for handling data call set up with signals exclusively initiated by the interworking function (54) and/or network controller (63). Boese is directed to transmission of LSSU messages over a SS7 network having multiple levels.

Hence, the combination of these teachings would suggest the transmission of LSSU messages over the SS7 network (52) of Turner, namely the communication between the PSTN switch (50) and the interworking function (54) of. None of these references, either alone or in combination, would be directed to communications between the gateway and the access server as claimed.

As set forth in the first and third claim sets (claims 1-11 and 14, 21-24), however, includes the limitation of “sending a status message *from* an access server *to* a gateway. *Emphasis added.* The status message includes information directed to whether the access server is operational (claim 2; claim 14), capabilities of the access server (claim 3; claim 14), a additional transmission of an interface status message directed to register an interface on the access server that is available to receive user information from the telephone switch (claim 7; claim 21) and/or provide status on at least one channel on the interface (claim 9; claim 22), and a service message to identify a change of state in one of the interfaces and channels (claim 10; claim 23). None of these message types are either taught or suggested by either Turner or Boese, and thus, the combined teachings do not suggest the claimed messaging scheme as well.

Moreover, the above-identified argument are applicable to the second claim set (claims 12-13). In particular, neither Turner nor Boese, alone or in combination, suggest transmission of a continuity check message from the gateway to an access server, and in particular, sending a *continuity check result message* from the access server to the gateway, where the continuity

check result message *reports a result of a continuity check for a channel supported by the access server. Emphasis added.*

In order to further facilitate prosecution of the subject application, Applicants respectfully request the Examiner to contact the undersigned attorney at the phone number listed below to coordinate an Examiner's interview to discuss the allowability of the pending claims if such discussion is warranted. The undersigned attorney can be reached at the phone number listed below.

In light of the foregoing, Applicants respectfully request that the Examiner withdraw the outstanding rejection.



Conclusion

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Dated: January 27, 2005

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